IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 34157 of 2006(N)

PETITIONER:

THOMAS MICHAEL, MANNARKATTU VEEDU,
MUNNAR, IDUKKI DT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS:
---

1. LAND REVENUE COMMISSIONER,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
COLLECTORATE, PAINAVU, IDUKKI DT.

3. THE TAHASILDAR,
DEVIKULAM TALUK, IDUKKI DT.

4. THE VILLAGE OFFICER,
KDH VILLAGE, DEVIKULAM TALUK.

BY GOVT. PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.34157 OF 2006

Dated this the 31st day of January, 2007

JUDGMENT

Heard learned counsel for the petitioner and learned Government Pleader.

2. According to the petitioner, he is in possession and enjoyment of 22 cents of land in Sy.No.62/10C of KDH village in Idukki district from 1971 and as per Ext.P1 Kuthakapattam agreement, the third respondent gave possession of the property to the petitioner in 1986 and that Ext.P3 receipt would show that rent was accepted from the petitioner even after the period of the Kuthakapattam. According to the petitioner, he has made Ext.P4 application for assignment of land. However, on the allegation that respondents 3 and 4 are threatening to evict the petitioner in summary eviction procedure under the Land Conservancy Act, this writ petition is filed seeking a direction to consider Ext.P4 and also to desist from dispossessing the petitioner.

3. For one thing, if there is an application under the Land Assignment Act in the form of Ext.P4, the competent statutory authority will have to consider the same on merits . But that does not necessarily mean that under the cover of such an application any intruder of the property shall be in possession without facing any decision under the Land Conservancy Act. The Act itself contains protective measures for having the occupation of land.

4. On 21.12.2006, this Court had issued an interim order directing the petitioner to file an affidavit stating the details of property owned by him and his family members within the State. However, no such affidavit has been filed.

In the aforesaid circumstances, this writ petition is disposed of directing that if the competent among the respondents has received Ext.P4 and is pending, the same shall be considered and disposed of in accordance with law. The

competent officer will make an endeavour to finally dispose of any such application within an outer limit of six months from the date of receipt of a copy of this judgment. It is clarified that this judgment does not, in any manner, touch upon the entitlement or otherwise of the petitioner to such assignment.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.